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BEFORE THE
HOUSE ENERGY AND COMMERCE COMMITTEE,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

ON THE

UNITED NATIONS OIL-FOR-FOOD PROGRAM

*“THE UNITED NATIONS OIL-FOR-FOOD PROGRAM: A REVIEW
OF THE 661 SANCTIONS COMMITTEE”*

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Mr. Chairman, distinguished members of the Committee,

I am pleased to appear before you today to assist in your ongoing assessment of the multilateral sanctions regime previously imposed on the former Iraqi Government from 1990 to 2003, and, specifically, your focus on the UN Oil-for-Food (OFF) Program which was established by the UN Security Council to alleviate the humanitarian consequences of these sanctions on the people of Iraq.

Mr. Chairman, my brief oral statement is intended to complement and amplify the testimony presented before this Committee on May 16 by my Department of State colleague, Gerald Anderson. I have tried to focus my remarks on the work of the Iraq Sanctions “661” Committee, problems associated with the pricing of Iraqi oil exports, oil smuggling, flights, ferry service, and the multiple efforts in which we and the British engaged during the life of the sanctions regime on Iraq to compel Member State compliance. In addition, Mr. Chairman, I stand ready to respond to questions that you and other Committee members may pose on these and other related issues concerning sanctions on Iraq and the Oil-for-Food Program.

Mr. Chairman, you and the other Committee members will recall that the Security Council, through the adoption of Resolution 661, acted to impose comprehensive trade and financial sanctions against the former Iraqi regime four days after Iraq invaded Kuwait in early August 1990. The United States government supported this measure as part of a larger strategy to force Iraq to cease hostilities and to withdraw its forces from Kuwait.

At the end of the Gulf War in 1991, the Security Council adopted Resolution 687 that extended comprehensive sanctions on Iraq to ensure that Saddam Hussein complied with the major provisions of the ceasefire. By retaining the sanctions, the Council also sought to deny Iraq the capability of rearming or constituting its weapons of mass destruction and other military programs.

Mr. Chairman, the sanctions were not anticipated to remain in place for more than a year or two before Saddam complied. However, we now know that Saddam chose not to comply. By 1995, in the wake of deteriorating humanitarian conditions in Iraq, many in the international community called for an end to the restrictions, reflecting concern that the impact of the sanctions was being borne primarily by the innocent Iraqi civilian population.

As my colleague, Mr. Anderson, noted in his testimony on May 16, it was against this backdrop that the Security Council adopted Resolution 986 in April 1995, thereby establishing the Oil-for-Food (OFF) Program. The Program was intended to alleviate the serious humanitarian crisis underway in Iraq while maintaining comprehensive restrictive measures to deny Saddam access to items that he could use to again pose a threat to the international community.

The sanctions committee that was established under Resolution 661, known as the “661 Committee,” was tasked by the Council with monitoring implementation of the overall sanctions regime on Iraq, and, after the

Council's adoption of Resolution 986, with monitoring implementation of the Oil-for-Food Program.

In addition, the 661 Committee, through each of its members, also was responsible for reviewing humanitarian contracts, oil spare parts contracts, and oil pricing submitted on a regular basis by Iraq's State Oil Marketing Organization (SOMO) for approval. The United States delegation was an active participant in all such reviews.

Mr. Chairman, the 661 Committee, like all Security Council sanctions committees, operated as a subsidiary body of the Security Council. However, unlike the Council, decisions were made on a consensus basis, requiring the agreement of all parties and members. The efforts of the U.S. and the United Kingdom to counter or address non-compliance often were negated by other members' desires to ease sanctions on Iraq. The fundamental political disagreement between members over the Council's imposition of comprehensive sanctions often was exacerbated by the actions of certain key Member States in advancing self-serving national economic objectives. The atmosphere in the Committee, particularly as the Program evolved during the late 1990s, became increasingly contentious.

In retrospect, although the consensus rule often stymied progress in the Committee, that same consensus rule helped the U.S. achieve its objectives in a number of critical ways.

In previous testimony before other Congressional committees investigating Oil-for-Food matters, I have tried to delineate the various ways

in which Saddam Hussein attempted to undermine and subvert the comprehensive sanctions imposed under Resolution 661 (1990). Specifically, I referred to what I described as a “pull-down menu” of manipulative mechanisms that Saddam employed to circumvent the sanctions. These included surcharges, the topping off of oil loadings, influence peddling, product substitution, product diversion, phony service contracts, phantom spare parts, shell corporations, illusory performance bonds, hidden bank accounts, and plain old-fashioned bribery and kickbacks involving millions of dollars.

Saddam cleverly exploited these avenues for non-compliance by granting oil and humanitarian supply contracts to those willing to bend the rules in Iraq’s favor. So when, for example the United States and the United Kingdom attempted to institute an oil pricing policy in the 661 Committee, a policy which became known as “retroactive pricing,” that was aimed at reducing or eliminating unauthorized excess charges being imposed by the Iraqi Government on oil export contracts, certain 661 Committee members strongly resisted our efforts. In that instance, we were able to use the consensus rule of the 661 Committee to our advantage to withhold our consent to oil prices proposed at the beginning of each month by Iraq’s State Oil Marketing Organization (SOMO), until we were able at the end of the month to determine whether the proposed prices reflected “fair market value” in comparison with other comparable crude oils. By all accounts, our strategy succeeded in greatly reducing oil premiums from fifty cents per barrel to about five cents per barrel, thereby reducing the involvement of oil middlemen who, according to the UN Oil Overseers, contributed nothing to Iraq’s oil export efforts under the Oil-for-Food Program.

Mr. Chairman, 661 Committee members with strong economic interests in Iraq used numerous tactics, both procedural and substantive, to delay or oppose our attempts, in coordination with the British, to achieve widespread compliance with the sanctions.

The combined efforts by Saddam to evade sanctions, coupled with the willing acquiescence of certain governments to permit unauthorized deviation from the measures, made it increasingly difficult for the United States and the United Kingdom to maintain the effectiveness of the restrictions, despite our best efforts. Much of what the U.S. could and could not achieve with regard to monitoring the Oil-for-Food Program and implementing the sanctions was directly related to the political situation surrounding the contentious issue of Iraq in the Security Council and in the 661 Committee. Our efforts to keep the comprehensive sanctions regime in place for as long as we did, from August 1990 until May 2003, despite its inevitable weakening, far exceeded the expectations of policymakers at the time the restrictions first were imposed.

Mr. Chairman, in the time remaining for my prepared testimony, I would like to cite three examples of the types of problems we and the British faced in our dealings in the 661 Committee. One situation we attempted to correct, only to be met with stiff resistance from other Committee members, involved the unauthorized flow of oil through the Iraq-Syria pipeline, a violation we repeatedly criticized both in our public statements and in our discussions with other Security Council and 661 Committee members. During an October 2002 meeting of the 661 Committee, we requested an

explanation as to the apparent discrepancies between the amount of oil Syria produced domestically, the amount it consumed domestically, and the total annual volume of oil that Syria exported. The Syrian representative, a member at the time of the 661 Committee, with support from other delegations, questioned the reliability of the figures we quoted, which we had drawn from publicly available oil industry publications. Another delegation, seeking to deflect the focus on Syria, suggested the Committee's work would be more effective if alleged sanctions violations were not considered singularly and in isolation, but rather were viewed in the relative context of other reports of non-compliance.

A second example to which I would draw your attention involved the use of ferries traveling from the United Arab Emirates to and from Iraq, ostensibly authorized only to transport passengers and their immediate possessions, not commercial goods. In a series of 661 Committee meetings, we and the British repeatedly objected to giving permission to the governments of Bahrain, Oman and Qatar to initiate their own ferry service to Iraq unless and until the illegal practices of the ferries operating from the UAE first were stopped. We specifically took such action because several successive briefings to Committee members by the Commander of the Multinational Maritime Interception Force (MIF), operating in the Persian Gulf, confirmed with photographic evidence that commercial goods and supplies were being loaded onto ferries in the UAE in direct violation of previously agreed Committee rules governing ferry service. Other 661 Committee members severely criticized us and the British for linking our decision to block Committee approval of ferry service from other Gulf States to the ongoing problems associated with ferry service from the UAE to Iraq.

However, we maintained our opposition to new ferry service and requested that steps be taken to compel the government of the UAE to exercise greater control over ferries departing from its ports to Iraq.

A third issue that merits your consideration, and on which I would offer brief comments, concerns flights to Iraq during the time multilateral sanctions were in force. It was the consistent position of the United States, with support from the United Kingdom, that Resolution 661 prohibited flights to and from Iraq, unless they were carrying food, medicine, or other essential humanitarian needs, and that, as per paragraph 4 of Resolution 670, which the Security Council adopted on September 25, 1990, the 661 Committee authorized each specific flight on a case-by-case basis.

A number of Security Council and 661 Committee members, among them France, Russia and China, took the position that Member States only were obligated to provide the 661 Committee with prior written notification. Unlike other 661 Committee members, with the exception of the British, the United States delegation reviewed each flight request, including cargo lists and flight manifests, before granting its approval. Our aim was to prevent Saddam from gaining access to possible dual-use and WMD items.

Finally, Mr. Chairman, concerning the oil voucher program established by Saddam allegedly to reward those individuals, groups, and entities who had helped the Iraqi regime, I would like to offer two observations:

a) knowing now of the existence of such a program, in retrospect, possibly helps to explain why certain members of the Security Council and the 661 Committee fought so strenuously with us and the British to abandon our retroactive oil pricing policy, to release our holds on what amounted by the Spring of 2002 to 5.4 billion dollars in humanitarian goods contracts, and generally to ease the restrictive measures against Iraq; and,

b) had we and the British known at the time of Saddam's efforts to influence individuals, groups, and other governments by means of an institutionalized, secret oil allocation program, we likely would have considered other strategies to address sanctions non-compliance and the apparent influence-peddling in which Saddam was extensively engaged.

Mr. Chairman,

I have intentionally limited the length of my formal statement in order to permit additional time for questions from you and the other Committee members. I know you are aware that there are some limitations as to what I can say in an open briefing. I will attempt to answer all your questions within the confines of U.S. law limiting public dissemination of classified material. Should you and other Committee members seek additional information pertaining to classified material that might require a closed hearing, I stand ready to provide you with whatever details you may desire.

Mr. Chairman, thank you for the opportunity of appearing before the Committee today. I am happy to answer your questions.